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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/536,024	03/27/2000	Mitsunobu Yoshida	0039-7661-2SRD	4024
22850	7590	08/20/2004	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			AKKAPEDDI, PRASAD R	
			ART UNIT	PAPER NUMBER
			2871	

DATE MAILED: 08/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 09/536,024	Applicant(s) YOSHIDA, MITSUNOBU	
	Examiner Prasad R Akkapeddi	Art Unit 2871	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 August 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. **ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).**

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-15, 17-22, 24-28, 49, 50 and 53-64.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Continuation of 5. does NOT place the application in condition for allowance because: The applicant has added the limitation 'grayscale image to be displayed'. The examiner has not considered this to be a new issue because this has already been suggested by the examiner in the previous office action.

(1) However, the applicant has not overcome the claim objections for claims 15, 22 and 50 identified in the previous office action. In response to the objection, the applicant merely states (page 12, lines 20-22) that "However, Figs. 10A-10C and Figs. 19A-19C clearly show that the contact area may have at least 3 different values". The Examiner still fails to see three values for the contact area in these figures. What can be seen in the figures is three possible reflections for the light beam when the light beam comes in contact with the surfaces 17 and 2. In Fig. 19A light is totally reflected, in Fig. 19B light is partially reflected and partially transmitted and in Fig. 19C light is totally transmitted. These states of reflection and transmission can be obtained by various coatings on the surfaces. It is not clear how three contact values can be inferred just from looking at these figures. Hence, the objection to the claims is still maintained.

(2) In addition, the Applicant (page 16, lines 9-12) has asked that the Examiner point out in a non-final action where the control mechanism capable of changing the value of a contact is taught or suggested in Yanekubo in view of Cromack. As previously mentioned in the office action (page 7 of the action), the examiner has identified where Yanekubo teaches the capability of displaying grayscale images (col. 1, lines 51-55 of Yanekubo), thus having three values that can produce grayscale images according to the interpretation given in paragraph 2. In (col. 5, lines 58-61) Yanekubo teaches the specific control mechanism by which the thin film (40) and the light guide (21) can be connected for the optical switching element (1). In Fig. 1 and (col. 5, lines 37-65), Yanekubo clearly teaches the transmission and reflecting properties of the light beam at the interface of the light guide (21) and the contact members (32 and 36). Since the Final office action has already provided an explanation, it is not necessary to provide another non-final office action as requested.

(3) In view of the above remarks, the Office maintains the rejections per the Final Office action dated 04/05/2004.

RA


TARIFUR R. CHOWDHURY
PRIMARY EXAMINER